United Nations CRPD/C/MNG/CO/1

Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Concluding observations on the initial report of Mongolia*

I. Introduction

1. The Committee considered the initial report of Mongolia (CRPD/C/MNG/1) at its 188th and 189th meetings (CRPD/C/SR.188 and 189), held on 8 and 9 April 2015, respectively, and adopted the following concluding observations at its 199th meeting, held on 16 April 2015.

2. The Committee welcomes the initial report of Mongolia and the State party's endeavour to provide written replies to the list of issues (CRPD/C/MNG/Q/1/Add.1) prepared by the Committee.

3. The Committee appreciates the constructive dialogue held with the State party's high-level delegation, which included representatives of relevant government ministries and departments. The Committee commends the delegation's candid responses to the questions that were posed by members of the Committee. The Committee also commends the State party for the balance of men and women in its delegation.

The Committee is concerned that the State party does not closely follow the Committee's reporting guidelines in addressing the measures that have been adopted to give effect to Convention obligations for ensuring national-level disability law and policy changes. A detailed account of the steps taken by the State party to ensure the effectiveness of policy coordination and adopt a strategic approach to implementation, would have been useful. The Committee will address this concern in the present concluding observations, under the relevant articles.

II. Positive aspects

4. The Committee commends the State party for its efforts to review and amend its legislation, in particular for establishing a working group of representatives from relevant ministries, agencies and organizations of persons with disabilities. The Committee also commends the State party for:

* Adopted by the Committee at its thirteenth session (25 March-17 April 2015).

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(a) Taking measures to ensure that national legislation and policies comply with the Convention;

(b) Improving understanding of the Convention as a vehicle for fostering the development of national-level disability laws and policy changes, including by making extensive use of international cooperation;

(c) Endeavouring, over the years, to implement the legal provisions outlined in the Constitution, in human rights treaties and in the International Labour Organization conventions ratified by the State party;

(d) Adopting, in 2012, a plan to implement the Incheon Strategy to "Make the Right Real" for Persons with Disabilities in Asia and the Pacific;

(e) Initiating its action programme for 2008-2012.

III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1–4)

5. The Committee is concerned that while the State party adheres to the concept of disability of the World Health Organization and focuses on conditions arising from inherent personal or medical impairment, it overlooks environmental factors. While the Convention recognizes an evolving concept of disability, the State party appears to be trapped by the concept of "permanent disability".

6. The Committee is concerned that the State party's legislation and policies on persons with disabilities are not harmonized and do not adequately reflect the interdependency of all of the Convention's articles.

7. **The Committee recommends that the State party:**

(a) **Harmonize its national legislation and policies to ensure full compliance with the Convention and the interdependency of its provisions, and that it adopt the human rights model of disability, which stresses the human dignity of persons with disabilities and the conditions arising from interactions with various barriers that may hinder their full and effective participation in society on an equal basis with others;**

(b) **Develop a strategy for implementation, with clear structures for policy coordination, benchmarks, timelines and appropriate funding.**

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

8. The Committee is concerned about the fragmented nature of the State party's disability-relevant anti-discrimination legislation and the lack of coordination, including with organizations of persons with disabilities and ministries, to ensure the effective implementation of coherent domestic laws as part of a strategy to implement the Convention. Furthermore, the Committee is concerned that the State party does not legally recognize that denial of reasonable accommodation is a prohibited ground of discrimination.

9. **The Committee recommends that the State party: address discrimination on the grounds of disability as a cross-cutting issue in its legislation and that it**

incorporate the concept of non-discrimination into all legislation concerning persons with disabilities; adopt legislation classifying denial of reasonable accommodation as an act of discrimination on the grounds of disability; establish an effective mechanism to monitor all aspects of compliance with such legislation, including those making it possible for persons with disabilities to seek redress and commensurate compensation on discrimination based on disability; and provide the necessary training to public and private actors, including members of the judiciary, civil servants and representatives organizations of persons with disabilities, on discrimination based on disability and the duties and possibilities concerning the provision of reasonable accommodation to persons with disabilities.

Women with disabilities (art. 6)

10. The Committee is concerned about the overall lack of information on the social, economic and political situation of girls and women with disabilities in Mongolia, on the incidence of violence, including sexual abuse, to which they are subjected and on the limited participation of women with disabilities in making decisions affecting them in general.

11. **The Committee urges the State party to undertake consultations with women and girls with disabilities with a view to reforming the law and changing policies, paying particular attention to their family lives, education, health services and employment, and combating domestic and/or sexual violence. The Committee also recommends that the State party's gender policy include children with disabilities.**

Children with disabilities (art. 7)

12. The Committee is concerned about the inadequacy of specific measures for providing children with disabilities and their families, in particular girls with disabilities and children belonging to nomadic communities, with protection, as well as about the inadequacy of the education provided to children with disabilities, in particular in rural areas. The Committee is also concerned about the fact that boys and girls with disabilities are not systematically involved in the making of decisions that affect them and that they do not have the possibility to express their opinion on matters that affect them directly.

13. **The Committee recommends that the State party take steps, including consultations with organizations of persons with disabilities, to ensure early intervention, an overall increase in the enrolment of boys and girls with disabilities in primary education, the implementation of inclusive early childhood education and opportunities for vocational training for youth with disabilities, and to prevent violence and abuse against and the abandonment of children with disabilities. In doing so, the State party should pay particular attention to the situation of girls with disabilities, as well as of all children with disabilities from rural areas and nomadic communities. The Committee also requests the State party to adopt safeguards to protect the right of boys and girls with disabilities to be consulted in all matters affecting them, ensuring appropriate assistance in accordance with their disability and age. All of these measures should be in line with the concluding observations of the Committee to the combined third and fourth periodic reports of the State party (CRC/C/MNG/CO/3-4).**

Awareness-raising (art. 8)

14. The Committee is concerned about negative attitudes towards persons with disabilities in the State party, as manifested in everyday language, the media and events such as "disability prevention day", which represents a concept that is contrary to the principles of the Convention. The Committee notes that the measures for raising awareness

of issues concerning the rights of persons with disabilities are inadequate, as even persons with disabilities and their families, let alone the general public and the relevant professionals, are not exposed to such issues. Furthermore, the Committee is concerned that the disability issue in general appears to be confined to physical disabilities and that inadequate attention is accorded to intellectual and psychosocial disabilities.

15. **The Committee recommends that the State party strengthen awareness-raising campaigns aimed at fostering a positive image of persons with disabilities as autonomous holders of human rights. In doing so, the State party should recognize, in such campaigns, the cross-cutting nature of the Convention, particularly with regard to articles 5, 12, 13 and 27, and adopt human rights-based models of disability as a key strategy to strengthen positive connotations and greater awareness of the diversity of disabilities. The Committee recommends that the State party make more efforts to promote the International Day of Persons with Disabilities.**

Accessibility (art. 9)

16. The Committee is concerned that the State party's measures on accessibility have tended to be limited to the physical aspects of accessibility and to overlook other barriers posed by certain information and communications technologies. In particular, the Committee is concerned that Braille and sign language have not been legally recognized in the State party and that there is currently only one television channel with severely limited broadcasts of accessible content. Furthermore, while noting the positive steps taken by the State party to enact legislation to promote accessibility, the Committee is concerned that the resources and enforcement measures needed for the effective implementation of such legislation remain inadequate.

17. **The Committee recommends that the State party: broaden its policy on accessibility to remove barriers to information and communications technologies, in order to better enable persons with disabilities to participate in society; provide legal recognition for sign language and Braille, and take measures to improve the quantity and diversity of media content accessible to persons with disabilities; increase the level of resources allocated to measures aimed at ensuring access to public transport, buildings and public spaces; and strengthen its monitoring and enforcement mechanisms on accessibility. This should include ensuring commensurate sanctions for the non-fulfilment of accessibility standards stipulated by legislation, in line with the Convention and the Committee's general comment No. 2 (2014) on accessibility.**

Situations of risk and humanitarian emergencies (art. 11)

18. The Committee is concerned about the lack of specific measures and assistance to protect persons with disabilities in situations of risk and humanitarian emergencies, despite the fact that the State party experiences natural disasters frequently.

19. **The Committee recommends that the State party adopt a national plan to provide assistance to persons with disabilities who are in situations of risk and humanitarian emergencies, and that it make the plan inclusive of and accessible to all persons with disabilities, especially deaf persons, including by adapting its format.**

Equal recognition before the law (art. 12)

20. The Committee is concerned about the inadequacy of the State party's legal measures for ensuring the rights of persons with disabilities, in particular persons with intellectual and/or psychosocial disabilities, to make choices about their lives and enjoy legal capacity on an equal basis with others. The Committee is also concerned that the State party permits guardians of persons with disabilities to make decisions regarding the

property and the personal issues of persons deemed persistently incapable of legal capacity owing to psychological restrictions caused by disability. The Committee notes that such a system continues to promote substituted decision-making instead of supported decision-making, contrary to the provisions of article 12 of the Convention and as set out in the Committee's general comment No. 1 (2014) on equal recognition before the law.

21. **The Committee urges the State party to ensure legal capacity for persons with disabilities, including with respect to their right to choose where and with whom they want to live, to vote for the political party they prefer, to have their health-care decisions respected, to control their own financial affairs and to have access to cinemas and other leisure and cultural activities. The Committee recommends that the State party amend the Civil Code so as to move from substitute decision-making to supported decision-making, which respects the person's autonomy, will and preferences and is in full conformity with article 12 of the Convention and general comment No. 1, including with respect to the individual's right to give and withdraw informed consent for medical treatment, have access to justice, vote, marry, exercise parental rights, work and choose his or her place of residence. The Committee also recommends that the State party provide training, in consultation and cooperation with persons with disabilities and their representative organizations, at the national, regional and local levels for all actors, including civil servants, judges and social workers, on the recognition of the legal capacity of persons with disabilities and on the mechanisms of supported decision-making.**

Access to justice (art. 13)

22. The Committee is concerned about the lack of explicit provisions ensuring procedural accommodation in situations necessary for guaranteeing access to justice for persons with disabilities. This includes the insufficiency of sign language, Braille and appropriate training for judicial, legal and law enforcement professionals.

23. **The Committee recommends that the State party adopt legal measures to implement the principle of procedural accommodation, including measures to ensure that persons with disabilities are discriminated on account of physical status or language (when sign language or Braille is required), or owing to the lack of appropriate training of legal profession, police and prison officers, with special attention to women with disabilities.**

Liberty and security of the person (art. 14)

24. The Committee is concerned that there are insufficient legal safeguards, other than references to the Constitution, to ensure that persons with intellectual and psychosocial disabilities are protected from forced hospitalization and institutionalization. The Committee is concerned about the lack of information on people with disabilities allegedly involved in crimes and on whether the rules of due process apply in these cases.

25. **The Committee recommends that the State party adopt a policy to initiate a structural review of the procedures used to sanction persons with disabilities when they commit criminal offences. The system should comply with the general safeguards and guarantees established for all persons accused of a crime in the criminal justice system, inter alia, the presumption of innocence and the rights to defence and to a fair trial. The Committee also recommends the application of reasonable accommodation in prisons in order not to aggravate incarceration conditions for persons with disabilities.**

Freedom from exploitation, violence and abuse (art. 16)

26. **The Committee is concerned about information concerning the State party pointing to high rates of violence, abuse and exploitation of persons with disabilities, particularly women and girls, and the lack of protection mechanisms against these human rights violations.**

27. **The Committee recommends that the State party:**

(a) **Make protection mechanisms, including shelters and legal redress, accessible to persons with disabilities, particularly women and girls, who face exploitation, violence and abuse;**

(b) **Appoint an independent authority to monitor and protect persons with disabilities from exploitation, violence and abuse, in accordance with article 16 (3) of the Convention.**

Protecting the integrity of the person (art. 17)

28. The Committee is concerned with the measures taken by the State party to prevent conception in persons with genetic psychosocial or intellectual disorders, or psychosocial or intellectually impaired persons, without informed consent (see art. 37 (b) of the Law on Health).

29. **The Committee urges the State party to eliminate legislative provisions of the Law on Health, as well as of bylaws and related regulations, restricting sexual and reproductive rights and allowing the forced sterilization of and abortion for women with disabilities, in particular psychosocial and intellectual disabilities.**

Living independently and being included in the community (art. 19)

30. The Committee is concerned about the lack of social assistance programmes aimed at enabling persons with disabilities to live independently in the community as provided for in article 19 of the Convention.

31. **The Committee recommends that the State party develop a deinstitutionalization plan, in consultation with persons with disabilities, that establishes support measures, including personal assistance to persons with disabilities, regardless of whether they have a family or not.**

Personal mobility (art. 20)

32. The Committee is concerned about the quality of subsidized mobility and assistive devices and the amount of subsidies the cost of which does not reflect market prices.

33. **The Committee recommends that quality assistive devices, technologies and services, including for repair and manufacturing, be made available through increased subsidies and that persons with disabilities be permitted to make their own choices in that regard.**

Respect for home and family (art. 23)

34. The Committee is concerned that the State party does not ensure the rights and responsibilities of all persons with disabilities, with regard to the guardianship, wardship and trusteeship of their sons and daughters, including access to adoption. It also notes that it does not render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.

35. **The Committee urges the State party to review and repeal all laws that prevent people with disabilities from exercising their parental rights, including the right to adoption, and to render appropriate assistance to people with disabilities in the performance of their child-rearing responsibilities.**

Education (art. 24)

36. The Committee is concerned that the number of teachers trained on teaching children with disabilities remains low. The Committee is also concerned that the State party does not have specific measures for ensuring an inclusive education system in pursuance of its initiatives such as the Law on Education and the Master Plan for Developing Education in Mongolia (2006-2015).

37. **The Committee recommends that the State party consider making education for children with disabilities a mandatory part of the syllabus for teacher training and providing options for advanced training on this topic. The Committee also recommends that the State party develop specific policies and programmes, and allocate a budget, for the implementation of an inclusive education system aimed at ensuring a quality inclusive education for all children with disabilities in their own localities. In doing so, the State party should not subject children with disabilities to an assessment as to whether their disability is "minor" or "major".**

Health and rehabilitation (arts. 25 and 26)

38. The Committee is concerned about the limited access for persons with disabilities to comprehensive health and rehabilitation services, particularly in rural and remote areas, including access to sexual and reproductive health. It is also concerned that under the health legislation of the State party, not all persons with disabilities can exercise free and informed consent.

39. **The Committee recommends that the State party take measures to ensure access for people with disabilities to health services without financial constraints, in particular sexual and reproductive health services, maternal and child health services, psychosocial services and comprehensive rehabilitation community-based services, for rural and isolated areas. The Committee also recommends ensuring that all persons with disabilities, regardless of the nature of their impairment, have the right to free and informed consent.**

Work and employment (art. 27)

40. The Committee is concerned that the sanctions for non-compliance with the legislative requirement for public and private entities with more than 25 personnel to have 4 per cent of personnel consisting of persons with disabilities is not commensurate and results in the majority of such entities choosing to pay the low fines for non-compliance rather than employ persons with disabilities. Furthermore, the Committee is concerned that the legislation limiting the maximum number of working hours per week to 36 for persons with disabilities may discourage their employment.

41. **The Committee recommends that the State party review its current system for enforcing the requirement that 4 per cent of the personnel of entities employing more than 25 persons consist of persons with disabilities in employment. In doing so, the State party should consider increasing the financial penalties for non-compliance with the quota. Furthermore, the Committee recommends that the State party adopt measures to improve the vocational capacity of persons with disabilities to improve their employment prospects, along with other reinforcing statutory measures, such as monitoring the quota system and developing new disability employment policies.**

Adequate standard of living and social protection (art. 28)

42. The Committee is concerned about the lack of data on the standard of living of persons with disabilities and the resulting lack of information to guide the formulation and implementation of social support measures for ensuring an adequate standard of living for such persons.

43. **The Committee recommends the State party to increase the quantity of social benefits afforded to persons with disabilities in line with the minimum wage and the minimum standard of living, and develop and implement compensation schemes for with regard to disability-related extra expenses incurred by persons with disabilities and their families.**

Participation in political and public life (art. 29)

44. While noting that the State party recognizes inadequacies in ensuring the full participation of persons with disabilities in political and public life, the Committee is concerned about reports that the State party's "Great Khural's election law" contains no specific references either to persons with disabilities or to assistive or support measures to accommodate persons with visual, hearing or mobility impairments.

45. **The Committee recommends that the State party repeal legal provisions that deny or restrict the right to vote based on disability and develop appropriate legal measures to ensure that persons with disabilities can fully participate in elections and public life as citizens, voters and candidates.**

Statistics and data collection (art. 31)

46. The Committee is concerned about the lack of data and statistics on the number and situation of persons with disabilities in the State party.

47. **The Committee recommends that the State party collect data and statistics, using the disability rights-based model, disaggregated by sex, age and disability, and, in particular, that it collect such information on persons with disabilities who are currently in institutional settings or who enjoy social protection under the Persons with Disabilities Act, the Social Insurance Act and the Social Welfare Act.**

International cooperation (art. 32)

48. The Committee is concerned that the State party's collaboration with international bodies to improve its capacity to implement the Convention does not adequately include the participation of persons with disabilities. In particular, the Committee is concerned about reports that some of the outcomes of such international cooperation have had the effect of implementing measures that are not in full compliance with the Convention, including prioritizing institutional care instead of community-based care and providing segregated rather than inclusive education as the principal means of addressing the needs of persons with disabilities. Furthermore, the Committee is concerned about the lack of information on the inclusion of the perspectives of persons with disabilities in the implementation of the Millennium Development Goals at the national level.

49. **The Committee recommends that further efforts be made to consider whether international projects undertaken by the State party are in full compliance with the principles of the Convention and to ensure the meaningful and empowered participation and inclusion of persons with disabilities and their representative organizations in designing, implementing and monitoring disability-inclusive development projects. The Committee recommends that the State party consider the perspective of the rights of persons with disabilities in the implementation of the Millennium Development Goals and the sustainable development goals that will be promoted as part of the post-2015 development agenda. The State party can ask the**

United Nations for technical assistance to continue the implementation of the Convention and the recommendations contained in the present document.

C. Specific obligations (arts. 31-33)

National implementation and monitoring (art. 33)

50. The Committee is concerned about the insufficient human, technical and financial resources allocated to fostering a coherent national-level disability law and institutionalizing policy changes for the implementation of the Convention.

51. **The Committee recommends that the State party specifically designate a national independent monitoring mechanism in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) to monitor implementation of the Convention. In doing so, the State party should ensure that the mechanism is provided with adequate human, technical and financial resources. Furthermore, it is strongly recommended that specific measures be undertaken to ensure the full participation of persons with disabilities through their representative organizations in monitoring the implementation of the Convention.**

Follow-up to concluding observations and dissemination

52. **The Committee requests the State party to implement the recommendations contained in the present concluding observations. The Committee recommends that the State party transmit the concluding observations for consideration and action to members of the Government and the Parliament, officials in the relevant ministries, the judiciary and members of relevant professional groups, such as education, medical and legal professionals, as well as to local authorities, the private sector and the media, using modern social communication strategies.**

53. **The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, as well as to persons with disabilities themselves and members of their families, in accessible formats.**

54. **The Committee strongly encourages the State party to involve civil society organizations, in particular disabled persons' organizations, in the preparation of its second periodic report.**

55. **The Committee requests the State party to provide, within 12 months and in accordance with article 35 (2) of the Convention, written information on the steps taken to implement the recommendations contained in paragraphs 32 and 46.**

Technical cooperation

56. **The Committee recommends that the State party avail itself of technical cooperation from the member organizations of the Inter-Agency Support Group on the Convention for the purpose of obtaining guidance and assistance on implementing the Convention and the present concluding observations.**

Next report

57. **The Committee requests the State party to submit its combined second and third periodic reports by no later than 13 June 2019, and to include therein information on the implementation of the present concluding observations. The Committee invites the State party to consider submitting the above-mentioned reports under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the due date set for the**

report/combined reports of a State party. The replies of a State party to such a list of issues constitutes its next report.